). W. 71 & 72—658,614—21-11-30.

C.F. 71 & 72.

19 32.

Department of L. P. Field

OFFICE B? of Rev

STATION Madras

BP No. 1286 Mis

1286

Dated 25-4-32

B 823
32

To whom sent	Date	Initial
	Given for copying	
	Copied 1-14	
	Examined	
	Signed	
	Given for despatch	
	Despatched	
	Indexed	
Pages in the file	To be destroyed on*	

DESPATCHED
27 APR 1932
27/4

(SUBJECT.)

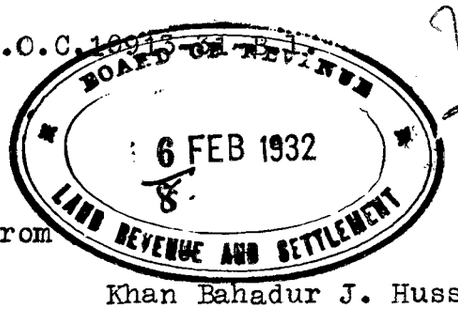
..esh (South Kanara) - Coondapur:
Shankaranarayana Upe - Sec 115 & 28
- Theft of sandal wood bits - Levy of
Suitable value as Compensation fee -
- Remarks [illegible] - Orders passed

*Not to be filled in in the case of permanent records.

B 823

R.O.C. 1093/3-A1 South Kanara Collector's Office,

Mangalore, 3rd February 1932.



From

Khan Bahadur J. Hussain, Bar-at-Law,

Collector of South Kanara.

To

The Secretary to the Board,

Land Revenue and Settlement,

M a d r a s.

Sir,

Forests - South Kanara - Offences - Shankernaraina village - S.Nos.115 & 287 - Theft of sandalwood trees - Levy of seigniorage value as compensation fee - Protest petitions.

****

13 sandalwood trees were illicitly cut from the kumaki lands of 4 landlords in Shankernaraina village, and as the offenders could not be detected, the District Forest Officer, North Mangalore ordered the kumakidars to pay compounding fees equivalent to the seigniorage value of the trees stolen on pain of suspension of their kumaki privileges agreeably to rule 7-A(5) of the rules framed under Section 26 of the Forest Act. All the kumakidars have protested against this levy of compensation fee.

Rule 7-A(5) of the rules framed under Section 26 of the Forest Act provides for the suspension or withdrawal of kumaki privileges on occurrence of abuse or violation of the privileges and so there does not seem to be any provision for levy of compensation or compounding fees as contemplated in Section 55 of Forest Act. There is also some doubt whether the expression "on occurrence of abuse or violation of the rules" refers to kumakidars alone or other persons as well. In 1925, the local Government Pleader who was consulted on a similar case was of opinion that the expression referred to may not include abuse or violation of the rules by

persons other than kumakidars. In the cases under reference the offenders are not known and the offences cannot be brought home to the kumakidars who are living at a distance of 8 to 15 miles. No one can be held liable for the criminal acts of another. On the analogy of this principle, the abuse or ---- violation of the rules by others cannot be construed as by the kumakidars. I therefore doubt if the District Forest Officer was justified in levying compensation fee and whether I can suspend kumaki privileges if they refuse to pay compensation fee especially as there is no evidence to connect the kumakidars with the offence. I solicit Board's instructions in the matter.

A Krishnaswamy
4/2/32

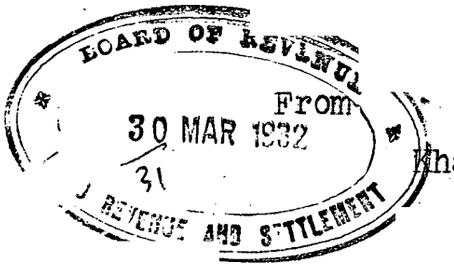
For Collector.

MB
4.2.32

3 RP 75
A 1090
B 1733

R.O.C.10913-31-B.1.

South Kanara Collector's Office,
Mangalore, 23rd March 1932.



From

Khan Bahadur J. Hussain, Barrister-at-Law,
Collector of South Kanara

To

The Secretary to the Board,
Land Revenue and Settlement
Madras.

Sir,

Forests - South Kanara - Offences - Shankernaraina village - S.Nos.115 & 287 - Theft of sandalwood trees - Levy of seigniorage value as compensation fee.

Sent to C.C. for R.O. for his remarks
B. 823/32, 17/2/32

This office R.O.C.10913-31-B.1, dated 3.2.1932.

I request early orders on the above reference.

For Collector.

23.3.32

DESPATCHED
4 APR 1932

Board's Ref.a No. B.823-32-1 & 2-4.32

The matter is under consultation with the Chief Conservator of Forests. On receipt of his reply the Board's orders will be issued.

1/4/32 2.4.32

To the Collector of South Kanara.

Note File

Forests (South Kanara)
- Coondapur Tk - Shankara-
narayana Vge - SNo 115 & 287)
- Theft of sandalwood trees

pp. 1-2q BB 53/32

To MS(HA

Please see the Collector's letter at pp. 1-2 of the question raised in the letter is whether the Hunnalli rights are liable to be withdrawn under rule 7-A(5) of Rules framed under s 26 of the Madras Forest Act, if the Hunnalli owners refuse to pay compensation under s 55 of the Act for the sandalwood. ✓ (Directly cut & st for Hunnalli lands by some unknown thieves.

P. 35 of the Forest manual

2. The provisions of s 55 of the Act seem to be optional in application and come into operation only when both the parties viz Government and the offenders agree for the compounding of the

offence the offender may will
readily accept the compounding
~~when he finds himself helpless~~
~~and cannot~~ to escape ~~criminal~~
prosecution. Cases may, however
arise where the offence
can be traced to the Humtidar
and there may not be sufficient
evidence to launch successfully a
criminal prosecution against
him successfully on his
refusal to pay compensation
Presumably to ~~punish only~~ meet such cases
~~such offenders by withdrawal~~
~~of Humtidi privileges~~ the provisions
contained in rule 7-A(5) are
intended. The application
of this rule is solely a
matter for the Collectors
discretion, and depends
upon the circumstances of
each case. When it
is clearly proved that
the occurrence of abuse
or violation of the forest
rules is beyond the control
of a Humtidar it seems
unfair to punish him unless

d/16-2-32

Clearly.

P. 35 of D
Humtidi manual.

A. Mf/17.2.32

Rubbish: a man gets a special privilege and it's his business to comply with the conditions attached to it.

P. Mf/17.2.32.

rule ...) - A-(5) for the criminal
acts of others

3 It may however be
observed that the Kumaltidars
are the custodians of
sandalwood trees (the property
of Government) in their Kumaki
lands. They get their reward
for preserving them i.e. 1/3 of the
value of the sandalwood
trees is paid to them when
the Forest Department
removes them and if is remitted
when the Kumalti lands
containing them are assigned
to them (Kumaltidars). The
preservation of sandalwood
trees by the Kumaltidars is
an implied contract to
custodians of the Govern-
ment properly, the Kumalti
dars are responsible
for any acts of commission
and omission affecting the
properly only. This liability
(the levy of compensation
under § 55 of the Act and
the suspension or withdrawal

Of course they are: then where is the "infamness"?
A.H. 17-2-32

B.S.O. 15-40 at p. 60 of Vol. I

no question of "only".
A.H. 17.2.32

of the case may

of Kumatti privileges for ——
their refusal to pay compensation
may be justified ——
4 — Is the question under
consideration affects the
Forest revenue, the remarks
of the Chief Conservator of
Forests on the Collectors
letter may be obtained by U.O.
For orders.

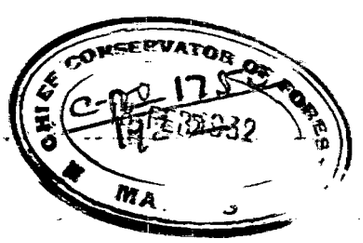
Q.
175-

17/2/32

15.2.32.

S

Boards U.O. No. B.823/32 & 17-2-32
Cf. of Fors., U.O.

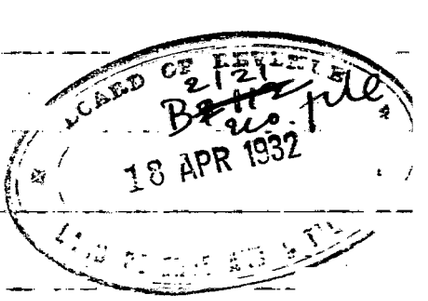


U.O.

(1) Cf. 2 pp
(2) F. 4 pp

There is nothing to show that the kumkidars were concerned with the illicit removal and the proposal to compound, which can only be under Section 55 of the Forest Act, is clearly indefensible. But the Collector confuses compounding with compensation. A kumkidar receives a consideration for protecting sandalwood on his kumki; if he fails to protect, the remedy is to suspend, or withdraw, his kumki privileges; but there is no reason why full enjoyment should not be immediately revived on payment of such compensation for the loss of the sandal as the Collector may care to fix. Obviously the amount of the compensation should be not less than the value of the trees removed.

p. 18 of the Forest Manual



16.4.32

For Chief Conservator

To the Secretary to the
Board of Revenue, Land Rev. & Sett.
C.C's U.O.No.1750-C1-32 d/15-4-32.

To AS (A-R)

Please see the 2nd. remarks of the Chief Conservator of Forests at p 4 ante. It is for orders whether the instructions of the Collector may issue in accordance with the C.C's remarks.

21/4/32

19.4.32 20.4.32.

21.4.32.

Draft submitted

25.4.32

AS (HR)

To AS (HR)

Draft submitted

25.4.32